

SPECIAL ADMINISTRATIVE CONDITIONS (CCAP) FOR INTELLECTUAL PROPERTY (IP) AND INFORMATION AND COMMUNICATIONS TECHNOLOGIES (ICT)

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This CCAP applies to all Intellectual Services (IP) and Information and Communication Technology contracts awarded by Aquitaine Science Transfer (SATT Aquitaine).

CHAPTER 1: GENERAL

ARTICLE 1: GENERAL OBLIGATIONS OF THE PARTIES

1.1. FORM OF NOTIFICATIONS AND INFORMATION

Notification to be provided to the contractor regarding decisions or information from the contracting authority involving deadlines shall be made:

- either directly to the contractor, or to its duly specified representative, against receipt;
- or by online communications, or on electronic media. Conditions for the use of paperless means of communication or electronic media are set forth in the specific contract documents;
- or by any other means of communication providing evidence of the date of receipt of the decision or information. Such notifications may be provided to the address of the contractor mentioned in the specific contract documents, or, failing this, at its headquarters, unless such documents require domicile elsewhere.

In case of a consortium, notifications shall be provided to the representative for the entire consortium.

1.2. CONTRACTOR'S REPRESENTATION

The contractor shall promptly notify the contracting authority of any changes that may occur during the performance of the contract relating:

- to the persons granted authority to sign on its behalf;
- to the legal structure of its business;
- to its corporate name or trade name;
- to its service address or headquarters;
- to the information it has provided for the acceptance of a subcontractor and the approval of its terms of payment, and in general to any significant changes in the operation of the business likely to impact the performance of the contract;
- in the event of receivership or compulsory liquidation, or any other proceedings related to insolvency.

1.3. CO-CONTRACTING

In case of any impairment of the representative for the consortium, the consortium members shall be required to appoint a replacement. Failing this, after a period of eight days from the date of provision of formal notice by the contracting authority to rectify the situation, the co-contractor listed in the second position in the deed of undertaking shall become the new authorized representative for the group.

1.4. SUB-CONTRACTING

1.4.1. If the contract awardee wishes to subcontract part of the same, it shall petition the contracting authority to approve each subcontractor and accept their terms of payment.

1.4.2. Upon signature of the special deed acknowledging acceptance of the subcontractor and approval of its terms of payment, the contracting authority shall provide the contractor and each of the subcontractors concerned with a copy of the corresponding special deed. Upon receipt of such notification, the contract awardee shall inform the contracting authority of the name of the natural person assigned to represent the subcontractor.

1.4.3. The contract awardee is required to notify the contracting authority of all subcontracting agreements and amendments thereto upon request. If the contractor fails to produce the same after a period of fifteen days counted from the date of receipt of formal notice to do so issued by the contracting authority, the contractor shall incur a penalty equal to 1/1000 of the gross amount of the contract or segment concerned, possibly as modified by amendments, or, otherwise, of the total amount of the purchase order concerned. This penalty shall be applied for each day of delay.

1.5. PURCHASE ORDERS

1.5.1. Purchase orders shall be issued to the contractor by the contracting authority.

1.5.2. Where the contractor has determined that the instructions given in a purchase order issued to it require it to present commentary, it must submit the same to the signatory of the purchase order concerned within 48 hours from the date of its receipt of the purchase order, or else be time-barred.

1.5.3. The contractor shall comply with the purchase orders issued to it whether or not it has presented commentary in regard thereto.

1.5.4. In case of co-contracting, purchase orders shall be sent to the consortium's authorized representative, who shall have exclusive authority to present commentary to the contracting authority.

1.6. SERVICE ORDERS

1.6.1. Service orders shall be issued to the contractor by the contracting authority.

1.6.2. Where the contractor has determined that the instructions given in a service order issued to it require it to present commentary, it must submit the same to the signatory of the service order concerned within 48 hours from the date of its receipt of the service order, or else be time-barred.

1.6.3. The contractor shall comply with the service orders issued to it whether or not it has presented commentary in regard thereto.

1.6.4. In case of co-contracting, service orders shall be sent to the consortium's authorized representative, who shall have exclusive authority to present commentary to the contracting authority.

ARTICLE 2: CONTRACTUAL DOCUMENTS

2.1. ORDER OF PRIORITY

In the event of contradiction between the stipulations set forth in the contractual documents, they shall take the following order of precedence:

- the deed of undertaking and any appendices thereto, in its latest version, including all modifications theretofore made by amendment;
- the special contract conditions (CCP) and any appendices;
- the tender regulations;
- the contractor's technical and financial offer.

2.2. DOCUMENTS TO BE SUBMITTED TO THE CONTRACTOR - ASSIGNMENT OR PLEDGE OF RECEIVABLES

2.2.1. The contract award notice shall include a copy, delivered to the contractor free of charge by the contracting authority, of the deed of undertaking and other contract documents, with the exception of the General Administrative Specifications, the General Technical Specifications, and in general all documents that have been officially published.

2.2.2. The contracting authority shall also provide the contractor free of charge with the sole original of the contract or the certificate of transferability necessary for the assignment or pledge of the contract upon the contractor's request.

ARTICLE 3: CONFIDENTIALITY. - SECURITY MEASURES

3.1 DEFINITIONS

The contracting parties agree that the term "Confidential Information" shall be taken to mean any information and data, in any form or of any kind whatsoever, including in particular any documents written or printed, any sample, model, or knowledge, protectable or otherwise, relating to the activities of the contracting authority or contractor, as well as any proprietary know-how and knowledge that may be provided by the contracting authority as part of the contract.

3.2 CONDITIONS

Each contracting party shall, to the extent authorized, transmit to the other party only such Confidential Information as it considers necessary for the fulfillment of the objectives of the contract.

The contracting parties undertake to ensure that the Confidential Information transmitted to them:

- will be protected and kept strictly confidential, and treated with the same degree of precaution and protection as they provide to their own confidential information;
- will be communicated internally only to members of their staff with a need to know solely for contract performance purposes;
- will not be used for purposes other than those set forth in the contract;
- will not be copied, reproduced or duplicated without specific authorization in writing from the transmitting party.

All Confidential Information and any reproductions thereof that may be transmitted by one party to the other must be returned within eight (8) days of the latter's request for such return.

The contracting parties shall have no obligation and shall not be subject to any restriction in connection with any Confidential Information which can be proved:

- to have entered the public domain prior to its disclosure, or after its disclosure by a third party acting in good faith;
- to have already been known to all parties, where such prior knowledge can be demonstrated by the existence of the appropriate documents in their files;
- to have been received in a legitimate manner from a third party authorized to disclose the same, in the absence of restrictions or breaches of contract;
- to have been used or disclosed as authorized in writing by the originating party;
- to have been disclosed as required by any law or legal ruling.

The disclosure of Confidential Information under the contract shall not confer upon the receiving party any rights whatsoever, including but not limited to: right of ownership, right of use, right of transfer.

It is specified that this obligation applies as well to any subcontractors; it is the contractor's responsibility to inform subcontractors of these confidentiality obligations and ensure their compliance with the same.

Notwithstanding termination or expiry of the contract, the commitments undertaken under this article 3.2 shall remain in effect for five (5) years counted from the expiry or termination of the contract.

ARTICLE 4: LABOR PROTECTIONS AND WORKING CONDITIONS

4.1. The obligations incumbent upon the contractor shall be those set forth in the laws and regulations relating to labor protections and working conditions in the country where the workforce is to be employed. The contractor is also required to comply with the provisions set forth in the eight fundamental conventions of the International Labor Organization when the same are not included in the laws and regulations of the country where the workforce is to be employed. The contractor must be able to provide proof of this for the entire duration of contract performance, and during the guarantee period for the services, upon simple request from the contracting authority. The conditions for the application of these regulations are set forth in the CCAP.

4.2. In the event of any changes to legislation regarding labor protections and working conditions during the contract performance period, any modifications that may be requested by the contracting authority for purposes of compliance with such new regulations shall be made by formal amendment, to be signed by the parties to the contract.

4.3. The contractor may request, in view of the specific conditions for performance of the contract, that the contracting authority notify it of any requests for exemptions as provided under the abovementioned laws and regulations, together with its opinion.

4.4. The contractor shall notify its subcontractors that the obligations set out in this article shall apply to them and shall remain responsible for their compliance.

ARTICLE 5: ENVIRONMENTAL PROTECTIONS

5.1. The contractor must ensure that the services it is to provide comply with the legislative and regulatory requirements in force concerning environmental protection, personnel safety and health, and preservation of surroundings. The contractor must be able to provide proof of this for the entire duration of contract performance, and during the guarantee period for the services, upon simple request from the contracting authority.

5.2. In the event of any changes to legislation regarding environmental protections during the contract performance period, any modifications that may be requested by the contracting authority for purposes of compliance with such new regulations shall be made by formal amendment, to be signed by the parties to the contract.

ARTICLE 6: REPAIR OF DAMAGES

6.1. Damages of any kind caused to the contracting authority's personnel or property by the contractor in the course of contract performance shall be borne by the contractor.

6.2. As long as the contractor has ownership over the supplies to be provided, the contractor shall remain solely liable for damages suffered by such supplies due to any cause other than exposure to artificial radioactivity or duly acknowledged natural disasters, except in case of default by the contracting authority. This stipulation shall not apply if equipment provided by the contracting authority to supplement the contractor's equipment causes damage to the latter.

6.3. The contractor guarantees the contracting authority against any losses caused by its equipment or the actions of its personnel that may impact the premises where such equipment is being operated, as well as against claims brought by third parties in the vicinity.

ARTICLE 7: INSURANCE

7.1. The contractor must take out insurance policies sufficient to cover its liability to the contracting authority and to any third parties that may suffer accidents or damages due to the performance of the services.

7.2. Within 15 days of the contract award notice, and prior to any commencement of contract performance, it must prove that it has subscribed such insurance contracts by providing a certificate attesting to the extent of the liability covered.

At any time during the performance of the contract, the contractor must be able to produce such a certificate upon request of the contracting authority, within 15 days of its receipt of such request.

CHAPTER 2: PRICE AND PAYMENT

ARTICLE 8: PRICE

8.1. GENERAL RULES

8.1.1. Prices are considered firm.

8.1.2. When firm prices are adjustable, the present value factor is rounded up to the nearest thousandth.

8.1.3. Prices are considered to include all tax or other charges mandatorily applicable to the services, costs relating to individual packaging, storage, packing, insurance, and transport to the place of delivery, costs relating to the application of article 16.4, and all other necessary expenses for service performance, risk margins and profit margins. However, costs incurred due to the contractor's failure to submit the proper request for dispatch documentation, or the contractor's delay in submitting such request, shall be borne by the contractor.

Such handling and transport costs as may arise from the deferment or rejection of the services shall be borne by the contractor.

ARTICLE 9: DETAILS CONCERNING TERMS OF PAYMENT

9.1. ADVANCES

The amount of the advance shall be determined on a case-by-case basis, and shall not exceed 20% of the total amount of the contractor's price offer.

Requests for payment of the advance to an approved subcontractor shall be presented to the contracting authority by the subcontractor itself. The subcontractor shall attach to this request a certificate from the contractor stating the amount for the services to be performed by the subcontractor during the twelve months following the start date for their performance.

9.2. DOWN PAYMENTS

Where the contract only stipulates the frequency of advance payments, the amount of each installment shall be determined by the contracting authority based on the description of the services provided and the amount thereof, as produced by the contractor. Each down payment shall be covered in a payment request submitted in invoice form.

9.3. CONTENT OF PAYMENT REQUESTS

9.3.1. Payment requests must be dated. They must include the following contract reference information:

- contractor's name, Siret number and address;
- bank or postal bank account number to be credited, as specified on the deed of undertaking;
- invoice date;
- contract reference number;
- purchase order reference number;
- dossier reference number (BV and/or PJ number, etc.) for the contracting authority
- description of the service;
- details regarding time worked per associate;
- details regarding "other fees";
- amount, excl. VAT, for the various services detailed, given in euros;
- VAT rate and amount;
- total amount, incl. tax, for the services provided.

As well as, depending on the case:

- the amount for the services received, determined according to the stipulations of the contract, excl. VAT, and, where applicable, adjusted by price reductions determined under the provisions of article 27.3;
- the breakdown of flat-fee prices and details of unit prices, where indication of these particulars is required under the specific contract documents, or where services have been performed in an incomplete or improper manner relative to the requirements set forth in the contract;
- where payment is to be made at the end of certain contract performance phases, the amount corresponding to the period in question;
- in case of a several-liability consortium, the amount of services provided by each individual economic operator;
- where applicable, payments and deductions other than the guarantee holdback, determined in accordance with the terms of the contract.

In any event, requests for payment shall include the complete bank details (IBAN + BIC + bank name) for the account to which payment is to be made. In the absence of such indication, payment will be blocked until the requested information is provided.

9.3.3. Requests for payment shall specify the items subject to VAT, differentiating them based on the applicable rate.

9.3.4. Unit prices may be divided so as to cover services still in progress.

9.3.5. Flat-rate prices may be divided if the service or part of the service to which the price corresponds is incomplete. A fraction of the price equal to the percentage of completion of the service shall then apply. In determining this percentage, reference will be made, at the contracting authority's request, of the price breakdown referred to in article 11.4.1. [note: 9.3.1]

9.3.6. The contractor shall draw up its payment request using the form or following the procedures set forth in the specific contract documents.

9.4. CALCULATION OF THE AMOUNT OWED BY THE CONTRACTING AUTHORITY IN RESPECT OF THE SERVICES PROVIDED

When the contract provides for the payment of advances upon the completion of certain service performance phases, and indicates the proportional part of the price to be paid upon completion of each one, payment requests shall include:

- the corresponding proportional part, for each portion of the contract performed;
- for each portion of the contract undertaken, after approval by the contracting authority, a fraction of the corresponding proportional part equal to the percentage of completion of the services constituting the portion in question.

ARTICLE 10: PAYMENT IN CASE OF CO-CONTRACTING OR SUBCONTRACTING

10.1. PROVISIONS CONCERNING CO-CONTRACTING:

10.1. In case of a several-liability consortium, each member of the group shall directly collect the sums corresponding to the performance of its own services.

10.2. In case of a joint-liability consortium, payment shall be made to a single account, opened in the name of the members of the consortium or of the authorized representative, unless the contract provides for a distribution of payments among the members of the consortium and stipulates arrangements for such distribution.

10.3. Whatever the form of the grouping, the authorized representative alone shall be entitled to submit payment requests to the contracting authority. In case of a several-liability consortium, the payment request submitted by the representative shall be broken down into as many sections as there are members of the consortium to be paid separately. Each section shall include the information necessary for payment of the economic operator concerned.

10.2. PROVISIONS CONCERNING SUBCONTRACTORS:

Services performed by subcontractors whose terms of payment have been approved by the contracting authority shall be paid for in accordance with the financial conditions set forth in the contract or in a special deed.

The settlement of accounts in the event of termination is covered in Chapter 7: Termination.

CHAPTER 3: TIME FRAMES

ARTICLE 11: PERFORMANCE TIME FRAME

11.1. BEGINNING OF THE PERFORMANCE TIME FRAME:

11.1.1. The contract performance time frame shall commence on the date of contract award notification.

11.1.2. The purchase order performance time frame shall commence on the order notification date.

11.1.3. The time frame for the performance of a conditional segment shall commence on the date of notification thereof.

11.2. EXPIRATION OF PERFORMANCE TIME FRAME:

11.2.1. For services to be delivered or performed on the premises of the contracting authority, the performance time frame expiration date shall be the date of delivery or completion of the services.

11.2.2. For research and analysis services, the performance time frame expiration date shall be the date of the presentation of the analysis to the contracting authority for the commencement of verification operations.

11.3. EXTENSION OF THE PERFORMANCE TIME FRAME:

11.3.1. Where the contractor is unable to meet performance deadlines for causes imputable to the contracting authority or to a force majeure event, the contracting authority shall extend the performance time frame. The extended deadline shall have the same effect as the contractual deadline.

11.3.2. In order to benefit from this extension, the contractor shall notify the contracting authority of the causes impeding performance of the contract by the contractual deadline. It shall notify the contracting authority of the duration of the extension requested.

11.3.3. The contracting authority shall have 15 days from the date of receipt of the contractor's request to respond with its decision, provided that the contract does not come to an end before the expiration of that time frame.

11.3.4. No performance time frame extension requests may be submitted after the expiry of the contractual deadline for service performance.

ARTICLE 12: PENALTIES FOR DELAY

12.1. Penalties for delay shall begin to accrue without the need for formal notice the day after the expiration of the contractual deadline for service performance, subject to the provisions of articles 13.3 and 22.4.

This penalty shall be calculated by applying the following formula:

$$P = v * R / 1000$$

Where:

- P = the penalty amount;
- V = the value of the services in regard to which the penalty is being calculated, this value being equal to the amount in base pricing, exclusive of price variations and exclusive of VAT, of the portion of the services delayed, or the entirety of the services if the delay in the performance of one portion renders the whole unusable;
- R = the number of days of delay.

12.2. Once the penalty amount has been determined, the variance formula provided for the contract shall be applied.

12.3. The contractor is exempt from penalties the total amount of which does not exceed €100 excl. tax for the entirety of the contract.

CHAPTER 4: PERFORMANCE

ARTICLE 13: RESOURCES MADE AVAILABLE TO THE CONTRACTOR

13.1. The provisions of this article shall apply where resources necessary for the performance of the service are made available to the contractor by the contracting authority.

13.2. Where such resources are the property of the contracting authority, they shall be provided free of charge to the contractor for contract performance purposes.

13.3. The contractor is responsible for the custody, preservation, maintenance and use of the resources entrusted to it, from the moment they are effectively placed at its disposal. It may make use thereof only for the fulfillment of the contract object.

13.4. When any of said resources is damaged, destroyed or lost, the contractor is obliged to repair it, replace it, or reimburse its residual value as of the date of its loss or damage.

13.5. Upon the completion or termination of the contract, or after a period established therein, the resources made available shall be returned to the contracting authority.

13.6. If the contractor fails to comply with obligations set forth in items 3, 4 and 5 of this article, the contracting authority may suspend payment of the sums due in respect of the contract, up to the estimated amount of the loss, until said obligations are fulfilled.

Irrespective of the penalties mentioned above, the contract may be terminated under the conditions set forth in article 32, in case of the non-presentation, faulty use or overuse of the resources made available to the contractor.

ARTICLE 14: INSURANCE OF THE RESOURCES MADE AVAILABLE TO THE CONTRACTOR

14.1. The contractor is required to provide insurance coverage for all resources belonging to the contracting authority, prior to the provision thereof and as long as the same remain at its disposal.

14.2. Within 15 days of the contract award notification, and prior to the commencement of contract performance, the contractor must prove that it has subscribed said insurance contracts by providing a certificate establishing the extent of the liability covered.

At any time during the performance of the contract, the contractor must be able to produce such a certificate upon request of the contracting authority, within 15 days of receipt of such request.

14.3. If the contractor fails to fulfill these requirements, the contracting authority may contract the necessary insurance policy or policies in its stead five days after formal notice is provided without effect.

The amount of the insurance premiums will then be deducted from the amounts due to the contractor under the contract.

ARTICLE 15: PLACES OF PERFORMANCE

15.1. The contractor must inform the contracting authority upon request of the location where the services are to be performed. The contracting authority may monitor the progress thereof on site. Access to these places of performance shall be reserved solely to representatives of the contracting authority.

Such persons as it may designate for such purposes shall have free access only to the areas concerned in regard to the performance of the services covered by the contract, in compliance with the safety regulations in place for the site. They shall be bound by the confidentiality requirements set forth in article 3.2.

For obvious ethical reasons, the contracting authority must not in any event designate any competitor of the contractor to audit the latter in the context of this article.

15.2. If the contractor obstructs the exercise of the contracting authority's right of supervision during the performance of the contract, it shall be liable to the penalties set forth under article 29.

ARTICLE 16: CHANGES OF A TECHNICAL NATURE DURING PERFORMANCE

16.1. During contract performance, the contracting authority may instruct the contractor to make changes of a technical nature, or accept such modifications as it may propose.

Comments: Such modifications shall not change the contract object or substantially modify the technical characteristics of the bid presented by the contract awardee at the time of the call for tenders.

The contract awardee shall not make any modification to the technical specifications without prior authorization from the contracting authority.

Notice of the contracting authority's decision shall be provided to the contractor carrying out the same. It shall submit its commentary within one month.

16.2. The contractor must provide a detailed estimate, indicating the price and deadline changes required. It shall have a three month period from the notification date of the contracting authority's decision ordering or accepting modifications, unless such decision specifies a different time frame.

The formulation of such modifications by the contracting authority shall result in the establishment of a formal amendment.

ARTICLE 17: SERVICE INTERRUPTION

Where services are divided into several technical portions to be performed separately, the contracting authority may decide, upon the completion of any of these portions, whether on its own initiative or upon contractor request, to not continue the performance of the services, provided that the following two conditions are met:

- the specific contract documents expressly provide for this possibility;
- each of these technical portions is clearly identified and stipulates a specific amount. The decision to interrupt the performance of services shall not give rise to any compensation. Termination of the performance of services will result in the termination of the contract.

ARTICLE 18: STORAGE, PACKING AND TRANSPORT

For contracts involving the supply of goods that are to become the property of the contracting authority, the following provisions shall apply to the storage, packing and transport of such goods.

18.1. STORAGE

18.1.1. If the specific contract documents provide for the storage of goods on the contractor's premises, the contractor will assume custodial liability during a time frame to be set forth in the specific contract documents, to be counted starting from the time of their receipt.

18.1.2. When storage is to be provided on the premises of the contracting authority, the latter will assume custodial liability until the decision to accept the goods is issued.

18.2. PACKING

18.2.1. The quality of the packing materials must be appropriate to the conditions and transport procedures stipulated in the specific contract documents. The packing materials are the contractor's responsibility.

18.2.2. The packing materials shall remain the property of the holder.

18.3. TRANSPORT

Transport shall be conducted to the place of delivery under the contractor's responsibility. Inner packaging, loading, stowage and unloading are also to be performed under its responsibility.

ARTICLE 19: DELIVERY

19.1. All deliveries performed by the contractor are to be accompanied by a delivery note or statement, prepared separately for each recipient, including the following in particular:

- the shipping date;
- reference information for the order, the project, and/or the contract;
- identification of the contractor;
- identification of the material being delivered, and where necessary, the per package distribution thereof;
- the number of the manufacturing batch or batches, if regulations stipulate such requirement in regard to labeling.

Each package must clearly display the corresponding order number, as shown on the delivery note or statement. Packages must include an inventory of their contents.

19.2. Delivery is confirmed by the signature of the delivery note or statement. If delivery is impossible, such impossibility must be mentioned on one of these documents. Nevertheless, the contracting authority shall have 48 hours to challenge such delivery in case of any deficiency, non-compliance, or deterioration of the products.

19.3. If the disposition of the premises assigned for the performance of deliveries results in exceptional handling difficulties not anticipated in the contract, such additional shipping costs as may result shall be paid separately. They shall be covered in an amendment.

19.4. A delivery postponement may be granted to the contractor by the contracting authority when delivery by the contractual deadline is impeded by causes not imputable to the contractor, in cases other than those referred to for deadline extensions under article 11.3.

This delivery postponement shall suspend the application of penalties for delay for a period equal to its duration. The formalities for the granting of the delivery postponement are identical to those applicable for the deadline extension discussed in Article 11.3.

No delivery postponement may be requested by the contractor on grounds of events occurring after the expiry of the contract performance deadline, as possibly extended.

CHAPTER 5: USE OF RESULTS

ARTICLE 20: DEFINITIONS

20.1. The term "results" refers to all elements, of whatever form, type and media, that may result from the performance of the services forming the object of the contract, such as, in particular: productions, software, updates thereto or new releases thereof, databases, distinctive signs, domain names, information, websites, reports, studies, trademarks, designs, inventions patentable or non-patentable under the code of intellectual property, and more generally all elements, protected or not by intellectual property rights or other types of protection, such as know-how, trade secrets, or image rights corresponding to property or persons.

20.2. The term "know-how" refers to a body of non-patented practical information, resulting from experience and tested, which is:

- Secret, i.e., not generally known or easily accessible;
- Substantial, i.e., significant and useful for the production of results;
- Identified, i.e., described in a sufficiently comprehensive manner to allow verification that it fulfills criteria of secrecy and substantiality.

20.3. The term "intellectual property rights" refers to industrial property rights as well as to literary and artistic property rights.

20.4. Literary and artistic property rights refers to copyright and related rights governed by the Intellectual Property Code, and to rights of the same nature as recognized abroad or under international agreements, conventions and treaties.

20.5. The term "industrial property rights" refers to industrial property rights and applications for such rights governed by the Code of Intellectual Property, including in particular: patents, trademarks, designs, semiconductor topographies, utility certificates, supplementary protection certificates, and rights or requests for rights issued abroad or pursuant to international agreements, conventions and treaties.

20.6. The term "prior knowledge" refers to all elements, of whatever form, type and media, that do not result from the performance of the services forming the object of the contract, such as, in particular: productions, software, updates thereto or new releases thereof, databases, distinctive signs, domain names, information, websites, reports, studies, trademarks, designs and models, inventions patentable or non-patentable under the code of intellectual property, and more generally all elements, protected or not by intellectual property rights or other types of protection, such as know-how, trade secrets, domain names, or image rights corresponding to property or persons, and that as of the contract award notification date belong to the contractor, to the contracting authority, or to third parties, or have been granted to them under a license agreement.

All elements of prior knowledge are identified in the specific contract documents.

ARTICLE 21: REGULATIONS CONCERNING PRIOR KNOWLEDGE

21.1. The conclusion of the contract shall not constitute a transfer of intellectual property rights or rights of any other nature related to prior knowledge. The contracting authority and the contractor shall each retain their own respective intellectual property rights or rights of any kind related to prior knowledge.

21.2. When the contractor incorporates into the results such prior knowledge as may be in its possession, or makes use of prior knowledge available under a free license system, or when prior knowledge, while not actually being incorporated into the results, is strictly necessary for the implementation of the results, the contractor grants, on a non-exclusive basis, to the contracting authority and the third parties named in the contract, the right to make use, permanently or temporarily, in whole or part, by any means and in any form, of the prior knowledge as strictly necessary to make use of the results, to meet the needs resulting from the object of the contract. This right shall include the right to reproduce, duplicate, load, display, store, perform, or represent the prior knowledge in order to use the results.

The concession of rights on previous knowledge is included in the contract price. The corresponding rights are granted for the duration of the contract.

21.3. During the performance of the contract, the contract awardee may not use or incorporate such prior knowledge necessary for the achievement of the contract object as may tend to limit or render more costly the exercise of the rights attached to the results without prior consent from the contracting authority.

ARTICLE 22: REGULATIONS REGARDING INTELLECTUAL PROPERTY RIGHTS OR RIGHTS OF ANY OTHER NATURE RELATING TO THE RESULTS

22.1. TRANSFER OF OPERATING RIGHTS CONCERNING THE RESULTS

22.1.1. Object

The contract awardee shall transfer all rights or titles of any kind corresponding to the results as may be required to permit the contracting authority to freely exploit the same, including for commercial purposes, on an exclusive basis.

This transfer is granted in consideration of the price of the contract, for the whole world, for all possible applications, for all purposes, and for the legal duration of the corresponding intellectual property rights.

Consequently, the contract awardee, starting from the date of the transfer of said rights, shall not license, use or exploit the results thus transferred in any manner whatsoever.

The contractor shall remain solely liable to its employees and third parties acting on its behalf.

22.1.2. Nature of the results, and scope of rights transferred

22.1.2.1 Results protected by literary and artistic property rights.

1. The contractor transfers to the contracting authority the literary and artistic property rights corresponding to the results in consideration of the price of the contract, for the whole world, for all possible applications, for all purposes, and for the legal duration of the corresponding intellectual property rights.

This transfer of rights shall cover the results from the time of delivery, subject to the condition precedent of acceptance of the services.

While respecting moral rights, these rights shall include all property rights for reproduction and representation, including adaptation, arrangement, correction, translation, and incorporation in regard to the results, as well as the right to distribute the same for commercial purposes, and for all possible forms of operation.

2. The right of reproduction shall include the right to reproduce the results, without restriction of quantity, in whole or part, as-is or modified, by any means and on any media, including types of media that may be unforeseeable or unknown as of the contract signature date.

3. The right of representation and distribution shall include, if necessary, the right of public communication, and the right to release the results publicly, of the results, in whole or in part, as-is or as modified, by any means, methods and processes, including those that may be unforeseen or unknown as of the contract signature date, for operational purposes, including for commercial purposes.

4. The source code and documentation necessary for the exploitation of the rights to the software delivered as part of the contract shall be provided on readable media, together with the object code. Source codes are considered confidential.

22.1.2.2 Results protected by industrial property rights.

1. The contractor shall inform the contracting authority of such results as it may identify as reasonably qualified for protection by industrial property rights.

2. The contract awardee authorizes the contracting authority to file for industrial property applications or rights, on the contracting authority's own behalf and at its own expense. The contract awardee shall exercise due diligence to enable the contracting authority to proceed with the corresponding filings for industrial property rights. For such purpose, it shall provide the contracting authority with the necessary information and authorizations to obtain industrial property titles relating to the results.

3. If filings have already been made for such rights, the contractor grants to the contracting authority (i) full ownership of the industrial property rights and rights applications for which it has filed in connection with the results; (ii) all Union priority rights possibly attached to the industrial property rights and rights applications; (iii) the right to bring any legal claim for any infringement, unfair competition, or free-riding, whether prior or subsequent to the contract signature date.

Consequently, as of the contract signature date, the contracting authority shall be exclusively subrogated to all the contractor's rights, legal claims and privileges in connection with the results, and thus become the owner and exclusive user of the industrial property rights and rights applications.

In regard to rights applications filed by the contractor, the latter shall be required, without limitation in time, to perform all procedures and sign all documents necessary to ensure the registration of such applications in the name of the contracting authority. If rights applications cannot be transferred to the contracting authority in any of the countries covered in the contract, the contractor shall sign any such documents as may be required, upon registration of such rights applications, to ensure their transfer to the contracting authority. Costs shall be the responsibility of the contracting authority as of the transfer date.

Regarding requests for rights filed by the contracting authority, the contract awardee is required to sign all documents necessary to permit the contracting authority to erase application filing procedures in the name of the contracting authority. The corresponding costs shall be the responsibility of the contracting authority.

The contract awardee undertakes in particular to ensure that any of its personnel that may be named as inventors shall provide all necessary signatures and complete all formalities necessary for filing, obtaining, maintaining the validity of, and defending the rights to the results.

22.1.2.3 Results covered by other protection systems.

1. The contract awardee grants to the contracting authority, on an exclusive, definitive, irrevocable basis, the right to exploit the results incorporating the know-how or the trade secrets.
2. The contract awardee grants the contracting authority the right to exploit the databases included, where appropriate, in the results.
3. The contract awardee also grants the exclusive right to the domain names subject to legal filings.

22.1.2.4 Common provisions

1. Generally, the contractor may not assert intellectual rights, property rights, or rights of any other nature that may belong to it against the exploitation of the results.
2. In case of contract termination for any reason whatsoever, the contracting authority shall remain the transferee of all operating rights relating to the results.
3. The contract awardee may not publish the results without prior approval by the contracting authority.

In any case, any publication must mention that the results were funded by the contracting authority.

4. For a period of two years, the contract awardee is required to provide the necessary assistance, at the contracting authority's request, for the proper exercise of rights necessary for the exploitation of results.

The contract awardee shall, in particular:

- a) turn over all drawings, documents, templates, and models required for the manufacture of the objects, materials and structures concerned, within a maximum of two months from the receipt of the request, which period may be extended by the contracting authority at the contractor's request for such items as cannot be made available without substantial additional work;
- b) provide assistance, including technical advice and temporary support from its specialized personnel, as well as disclosing any such manufacturing procedures and know-how as may be required for the use of the results.

22.2 GUARANTEES

The contract awardee guarantees to the contracting authority the full enjoyment, free from encumbrances, or claims based on intellectual property rights or other rights of any kind, relating to the results transferred under the terms of the contract.

The contract awardee guarantees that:

- it has ownership of all the intellectual property rights, rights applications, and titles to be transferred;
- that it owns or has possession of all rights to elements of previous knowledge to be granted;
- that it has not granted any license, assignment, pledge or any other right to the results, rights and rights applications to any third party;
- that no litigation is pending or imminent and that it is not aware of any litigation likely to be brought in regard to the rights to be transferred;
- that in the absence of fault directly imputable to the contracting authority, it will hold the latter harmless, and accepts joint and several liability for any suits, claims, actions, or objections brought by any person asserting that their rights have been infringed by the exploitation of the results and of the contract awardee's prior knowledge pursuant to articles 21 and 22. If the contracting authority is sued for infringement, unfair competition or free-riding, in the absence of fault on its part, as a consequence of the exploitation of the results and contract awardee's prior knowledge in accordance with articles 21 and 22, it shall promptly inform the contract awardee of such event so the latter may intervene in the lawsuit;

- that it undertakes in such cases to provide the contracting authority with such assistance as may prove necessary, at its own expense;
- that, at its discretion, it shall either (i) modify or replace the elements giving rise to the dispute so that they cease to fall within the scope of the claim, while preserving compliance with contract specifications, or (ii) make arrangements to ensure that the contracting authority is able to use the disputed elements without limitation or additional costs, or (iii) if one of these solutions can not reasonably be implemented, reimburse the contracting authority for the amounts paid in respect of the disputed elements and provide compensation for the damages suffered.

In such cases, the Contract awardee shall pay any damages the contracting authority may be sentenced to pay, in the absence of fault directly imputable to it, due to acts of infringement, unfair competition or free-riding as a consequence of its exploitation of the results and prior knowledge of the contract awardee in accordance with articles 21 and 22.1.2, as soon as the ruling imposing the same becomes enforceable.

The contractor's liability shall not be engaged by any allegations in regard to:

- prior knowledge provided to the contractor for contract performance purposes by the contracting authority;
- elements incorporated in the results at the express request of the contracting authority;
- modifications or adaptations made to the results, if the allegations are based on a modification or adaptation made by the contracting authority, or made by specific request of the latter.

22.3 ACCEPTANCE OF RESULTS

Any results delivered to the contracting authority by the contract awardee must be inspected by the contracting authority and may be subject to commentary on its part, provided in writing within thirty (30) calendar days of its receipt. If no commentary is issued by the contracting authority by the end of this period, the document shall be considered accepted.

If necessary, the contractor undertakes to promptly take into consideration all commentary formulated by the contracting authority, both in form and substance, modify the corresponding results accordingly, and submit duly adjusted results within fifteen (15) business days of the receipt of commentary in writing from the contracting authority.

The Parties also agree that if within the abovementioned thirty (30) calendar day time frame counted from the receipt of a result by the contracting authority, the contracting authority deems in good faith that the service provided is defective because it does not correspond in whole or in part to the service ordered, the contracting authority shall notify the contract awardee of its findings in writing (an email is sufficient in this regard). If this objection is proven, the contractor undertakes to perform the defective service again, without any additional charge to the contracting authority.

22.4 REGULATIONS CONCERNING SOFTWARE RELATED FEES

The provisions of this article reiterate the provisions of articles 21, 23, 24 and 32 of the CCAG ICT, and apply when the contract includes the delivery of software.

22.4.1 "Software updates and new versions - Technical Documentation"

22.4.1.1. Software updates and new versions

When the services include the delivery of standard or custom software, said services shall for the duration of the contract include the provision of updates and new versions thereof as well.

The price of these updates or new versions shall be included in the contract price.

22.4.1.2 Technical Documentation

Accompanying each piece of hardware or each piece of software, the contractor shall provide technical documentation, written in French, describing the procedure for their entry into operation. The same shall apply for each delivery of updates or new software versions.

The price of this technical documentation shall be included in the contract price.

This technical documentation shall provide the composition and characteristics of the hardware or software, as well as providing standard procedures for their use. Said documentation shall be submitted no later than at the time of the delivery of the hardware or software, or of each update or new version where appropriate.

22.4.2 "Installation and commissioning"

The installation and commissioning of the hardware and software shall be performed by the contractor.

The contractor shall have one month after the contractual delivery date to conduct said commissioning. It shall provide a commissioning report to the contracting authority, indicating whether it intends to be present for the verification operations.

The deadline originally set for commissioning may be suspended or the deadline extended, under the conditions set forth in article 11.3.

22.4.3 "Maintenance of services."

22.4.3.1 Maintenance conditions.

If the specific contract documents make provision for maintenance of the services to be delivered, this shall include such operations as may be requested by the contracting authority in the event of malfunctions in any of the elements covered by the contract, as well as preventive maintenance activities.

This maintenance shall also include modifications to be made to services delivered on the contractor's initiative. The contracting authority shall be notified in advance of such changes, and may object to them.

22.4.3.2 Access to premises belonging to the contracting authority to conduct maintenance operations.

When maintenance is to be performed on premises belonging to the contracting authority, the operations shall be conducted within a time window referred to as the intervention period.

The intervention period shall run from 8 am to 6 pm, Monday to Friday, except holidays.

Contractor employees approved by the contracting authority that have been assigned to perform such maintenance activities shall be granted access to the contracting authority's premises.

It may withdraw its approval on the basis of a substantiated decision, which it shall communicate to the contractor. During their presence on the contracting authority's premises, the contractor's employees shall be subject to the access and security rules established by the contracting authority and communicated to the contractor.

CHAPTER 6: ACKNOWLEDGEMENT OF PERFORMANCE OF SERVICES - GUARANTEE

ARTICLE 23: VERIFICATION OPERATIONS

23.1. TYPES OF OPERATIONS:

Quantitative and qualitative verification operations are intended to permit the contracting authority to check, in particular, that the contractor:

- has implemented the measures described in the contract, according to the requirements set forth therein;
- has provided the services assigned to it under the contract, in accordance with the contractual terms.

The materials and objects necessary for testing purposes will be collected by the contracting authority from the deliveries made under the contract.

23.2. VERIFICATION TIME FRAME:

The contracting authority shall have a two month period to carry out the verifications and provide notice of its decision to accept, defer, accept with price reductions, or reject.

23.3. START OF THE VERIFICATION OPERATIONS TIME FRAME:

23.3.1. For verifications to be conducted at the contracting authority's facilities, the time frame shall begin on the date when the services are handed over or delivered to the contracting authority by the contractor.

23.3.2. For verifications to be performed at the contractor's facilities, or in any other place indicated in the specific contract documents, the start time shall be the date when the contractor provides notice to the contracting authority the services are ready for verification.

23.4. VERIFICATION FEES:

23.4.1. Costs incurred for verification operations that in accordance with the contract provisions are to be conducted on its own premises, irrespective of their results, shall be borne by the contracting authority. In other cases they are to be borne by the contractor.

Nevertheless, when one of the parties agrees to perform tests on its own premises that in accordance with the specific contract documents should have been performed on the other party's premises, the corresponding expenses shall be borne by the latter.

23.4.2. The contractor shall notify the contracting authority of the date after which services may be presented in view of these verifications.

23.5. CONTRACTOR'S PRESENCE:

The contracting authority shall notify the contractor, at least eight days prior to the date scheduled, of the dates and times set for the verifications, to enable it to attend or be represented at the verifications.

If the contractor or its representative, having been duly informed of the verification, fails to appear, this will not prevent the performance or impact the validity of the verification operations.

ARTICLE 24: ACCEPTANCE, DEFERMENT, PRICE REDUCTION AND REJECTION

Subsequent to the verification operations, the contracting authority shall issue a decision to accept, defer, require price reductions, or reject, within the time frame set forth in article 23.2.

If the contracting authority for the contract fails to provide notice of its decision within the period indicated in article 23.2, the services will be considered accepted with effect as of the expiration of the deadline.

For contracts covering the provision of various separate services, each service will be subject to separate verifications and decisions.

24.1. ACCEPTANCE:

The contracting authority shall pronounce its acceptance of the services if they comply with the stipulations set forth in the contract. Acceptance shall take effect as of the date of contractor notification of the acceptance decision. In case of tacit acceptance, the effective date shall be the deadline indicated in article 26.2.

24.2. DEFERMENT:

24.2.1. When the contracting authority determines that certain services can only be accepted after some further adjustments are made, it may decide to defer the acceptance of the services on the basis of a substantiated decision.

This decision will invite the contractor to resubmit the adjusted services to the contracting authority within a period of fifteen days.

The contractor must provide notice of its acceptance within ten days of the deferment decision notification. In case of contractor refusal or non-response within this period, the contracting authority may at its discretion declare its acceptance of the services with a price reduction or reject them as provided under items 3 and 4 of this article within fifteen days counted from the date of notification of the contractor's refusal or from the expiration of the ten-day period mentioned above.

Non-response by the contracting authority beyond this fifteen day period shall be equivalent to a rejection of the services.

24.2.2. If the contractor does choose to present the services again, after the service deferment decision is issued, the contracting authority shall be provided the same full time frame once again to perform the verification of the services, counted from the time of their new presentation by the contractor.

24.2.3. If the verification operations were conducted on the contracting authority's premises, the contractor shall have a period of fifteen days from the deferment decision notification to remove any supplies delivered as part of the services forming the object of the deferment decision.

After that time, these supplies may be removed or destroyed by the contracting authority at the contractor's expense.

24.3. PRICE REDUCTIONS:

Where the contracting authority considers that the services are not fully compliant with the provisions of the contract yet may still be received as is, it shall pronounce their acceptance with a price reduction proportional to the magnitude of the imperfections identified. This decision must be substantiated. Notice thereof may only be issued to the contractor after it has had an opportunity to present commentary.

If the contractor does not present commentary within fifteen days of the notification of acceptance with price reduction, it shall be considered to have accepted the same. If the contractor does present commentary within this period, the contracting authority shall then have fifteen days to notify the contractor of its subsequent decision. In the absence of such notification, the contracting authority is deemed to have accepted the contractor's commentary.

24.4. REJECTION:

24.4.1. When the contracting authority determines that the services are not compliant with the terms of the contract and cannot be received as is, it will issue a decision of partial or total rejection.

24.4.2. In case of rejection, the contractor shall be required to perform the service included in the contract once again.

24.4.3. The contractor shall have a period of one month counted from the rejection decision notification date to remove any supplies delivered as part of the rejected services. After that time, they may be destroyed or removed by the contracting authority at the contractor's expense.

24.5. When the contracting authority's provision of poor quality or defective supplies or materials for use in the preparation of the services gives rise to the non-compliance of the services with the stipulations of the contract, the contracting authority may not issue a decision of deferment, acceptance with price reductions, or rejection:

- if within fifteen days counted from the date when it became able to observe them the contractor has notified the contracting authority of the deficiencies in the supplies, materials or equipment provided, expressing reservations in regard to any hidden defects undetectable with the means available to it;
- and when the contracting authority has decided that the supplies, materials or equipment must nevertheless be used, and has notified the contractor of its decision.

ARTICLE 25: TECHNICAL GUARANTEE

The services are covered by a minimum one-year warranty. The start of the warranty period shall be the acceptance decision notification date.

Comments: At the end of the warranty period, any security deposits made shall be released in accordance with article 103 of the Public Procurement Code.

The foregoing provisions shall not prevent the establishment of special guarantees under the specific contract documents for certain categories of services. In this case, the contract will establish the corresponding conditions, arrangements, and impact of these guarantees on the parties' respective obligations.

Said guarantee shall not constitute a legal guarantee of perfect completion in terms of project supervision and technical oversight.

CHAPTER 7: TERMINATION

ARTICLE 26: GENERAL PRINCIPLES

The contracting authority may terminate the performance of the services forming the object of the contract prior to their completion, either upon contractor request under the conditions stipulated in article 28, or by contractor fault under the conditions set forth in article 29, or under the specific circumstances discussed in article 27.

The contracting authority may also terminate the performance of the services at any time on grounds of public interest. In this case, the contractor shall be entitled to compensation for damages suffered due to this decision, as provided under article 30.

The contractor will be given notice of the contract termination decision. Subject to the special provisions mentioned below, termination will be effective as of the date specified in the termination decision, or otherwise as of the date of notification thereof.

ARTICLE 27: TERMINATION DUE TO EVENTS UNRELATED TO THE CONTRACT

27.1. DEATH OR LEGAL INCAPACITY OF CONTRACTOR:

In the event of the death or legal incapacity of the contractor, the contracting authority may terminate the contract or accept its continuance by assignees or trustees. A transfer amendment shall be established for this purpose.

Termination, if ordered, shall take effect as of the date of death or legal incapacitation. Neither the contractor nor its assignees shall be entitled to any compensation on these grounds.

27.2. JUDICIAL REORGANIZATION OR LIQUIDATION PROCEEDINGS:

In case of judicial reorganization, the contract shall be terminated if, after the provision of formal notice to the court-appointed administrator, in accordance with article L. 622-13 of the Commercial Code, the latter indicates that it will not assume the contractor's obligations.

In case of a court-ordered liquidation of the contractor, the contract will be terminated, if, after the provision of formal notice to the liquidator in accordance with article L. 641-10 of the Commercial Code, the latter indicates that it will not assume the contractor's obligations.

Termination, if ordered, shall take effect as of the date of the event. The contractor shall not be entitled to any compensation on these grounds.

27.3. PHYSICAL INCAPACITATION OF THE CONTRACTOR:

In case of manifest and enduring physical incapacitation of the contractor compromising the performance of the contract, the contracting authority may terminate the contract.

The contractor shall not be entitled to any compensation on these grounds.

ARTICLE 28: TERMINATION DUE TO EVENTS RELATED TO THE CONTRACT

28.1. CONTRACT PERFORMANCE DIFFICULTIES:

When the contractor encounters special technical difficulties during the performance of services, the solution of which would require an allocation of resources disproportionate to the value of the contract, the contracting authority may terminate the contract on its own initiative or at the contractor's request.

If it becomes impossible for the contractor to fulfill the contract due to a force majeure event, the contracting authority shall terminate the contract.

28.2. LATE SERVICE ORDER:

When termination is granted upon the contractor's request under article 1.6.3, the contractor shall be compensated for such possible costs and investments incurred for the contract as may have been strictly necessary for purposes of its performance.

28.3. SERVICE INTERRUPTION:

When the performance of services is stopped in application of article 17, the contracting authority shall terminate the contract.

The contractor shall not be entitled to any compensation on these grounds.

ARTICLE 29: TERMINATION DUE TO CONTRACTOR FAULT

29.1. THE CONTRACTING AUTHORITY MAY TERMINATE THE CONTRACT AT THE CONTRACTOR'S FAULT IN THE FOLLOWING CASES:

- a) The contractor contravenes legal or regulatory obligations concerning work or environmental protections;
- b) Resources have been made available to the contractor, and the contractor is in any of the situations covered in article 16.8;
- c) The contractor has not met its obligations by the contractual deadline;
- d) The contractor has hindered the exercise of oversight by the contracting authority under article 18;
- e) The replacement of the person designated to ensure the management of the services is disqualified, another one is not appointed within one month, or if the replacement is also disqualified within one month;
- f) The contractor has engaged in subcontracting that violates the laws and regulations relating to outsourcing, or has not complied with its obligations towards its subcontractors mentioned in article 3.6;

- g) The contractor has failed to produce the insurance certificates discussed in article 7;
- h) The contractor declares, in circumstances other than those discussed in article 27.1, that it is unable to perform its obligations;
- i) The contractor has not reported the modifications mentioned in article 3.4.2, and such modifications are likely to jeopardize the proper performance of the contract;
- j) The contractor has engaged in fraudulent activity during contract performance;
- k) The contractor or subcontractor violate obligations relating to confidentiality, the protection of personal data, and security, as discussed in article 3;
- l) The use of the results by the contracting authority is severely compromised due to the Contractor's delay in contract performance;
- m) Subsequent to the signing of the contract the Contractor has been made the subject of a ban on the exercise of any professional activity of an industrial or commercial nature;
- n) Subsequent to the signing of the contract, information or documents produced by the contractor in support of its application or required prior to the awarding of the contract prove to have been inaccurate.

29.2. Except as provided for under items j, m and n of paragraph 32.1 [29.1?] above, the contractor must have been previously provided with formal notice and a performance time frame, issued without effect.

In the context of the formal notice, the contracting authority shall inform the contractor of the anticipated penalty and invite it to present commentary.

29.3. The termination of the contract shall not prevent the exercise of civil or criminal proceedings that may be brought against the owner.

ARTICLE 30: TERMINATION ON GROUNDS OF PUBLIC INTEREST

When the contracting authority terminates the contract on grounds of public interest, the contractor is entitled to a termination fee, determined by applying to the initial gross value of the contract less the unadjusted gross value of the services received a percentage to be established in the specific contract documents, or otherwise 5%.

The contractor furthermore has the right to compensation for such possible costs and investments incurred for purposes of the contract as may have been strictly necessary for its performance and were not covered in the amounts paid for the services. It is the contractor's responsibility to provide such evidence as may be necessary to establish this portion of the compensation within fifteen days after the contract termination notice.

These compensations will be included in the termination account statement with no need for the contractor to make any special request in this regard.

ARTICLE 31: TERMINATION ACCOUNT STATEMENT

31.1. Contract termination will be covered in a termination account statement, to be prepared by the contracting authority and issued to the contractor.

31.2. The termination account statement, issued subsequent to a termination decision made in application of articles 28 and 30, shall comprise:

31.2.1. As debits against the contractor's account:

- the amount of sums paid for advances, down payments, final and partial payments, and remaining balances;
- the value, established in the contract and possible amendments thereto, of the resources entrusted to the contractor that it is unable to return, and the recovery value of the resources amicably transferred to the contractor by the contracting authority;
- the amount of any penalties.

31.2.2. As credits to the contractor's account:

31.2.2.1. The value of the services provided to the contracting authority, namely:

- the contractual value of the services received, including, where applicable, late payment interest;
- the value of any possible services provided at the request of the contracting authority, such as the storage of supplies.

31.2.2.2. Expenses incurred by the contractor in view of performing services that were ultimately not provided to the contracting authority, to the extent that these expenses were not amortized previously or subsequently, to wit:

- the cost of materials and items supplied for contract performance purposes;
- the cost of facilities, equipment and tools prepared in view of contract performance;
- other expenses incurred by the contractor directly related to contract performance.

31.2.2.3. Personnel costs, which the contractor can prove were incurred as the direct and necessary result of contract termination.

31.2.2.4. If termination is ordered in application of article 30, a lump sum, calculated by applying a percentage to the difference between the unadjusted value of the contract exclusive of VAT, and the unadjusted value of the services accepted exclusive of VAT. Unless otherwise specified in the contract, this percentage shall be 5%. The amount thus calculated will be adjusted as of the effective date of termination in accordance with the stipulations of the contract.

31.3. The termination account statement, issued subsequent to a termination decision made in application of article 29, shall comprise:

31.3.1. As debits against the contractor's account:

- the amount of sums paid for advances, down payments, final and partial payments, and remaining balances;
- the value, established in the contract and possible amendments thereto, of the resources entrusted to the contractor that it is unable to return, and the recovery value of the resources amicably transferred to the contractor by the contracting authority;
- the amount of the penalties;
- where applicable, the additional costs arising from the execution of a contract at the contractor's risk and expense, under the conditions set forth in article 36.

31.3.2. As credits to the contractor's account:

- the contractual value of the services received, including, where applicable, late payment interest;
- the value of any possible services provided at the request of the contracting authority, such as the storage of supplies.

31.4. The termination account statement, issued subsequent to a termination decision made in application of article 30, or upon request by the contractor, shall comprise:

31.4.1. As debits against the contractor's account:

- the amount of sums paid for advances, down payments, final and partial payments, and remaining balances;
- the value, established in the contract and possible amendments thereto, of the resources entrusted to the contractor that it is unable to return, and the recovery value of the resources amicably transferred to the contractor by the contracting authority;
- the amount of any penalties.

31.4.2. As credits to the contractor's account:

- the contractual value of the services received, including, where applicable, late payment interest;
- the value of any possible services provided at the request of the contracting authority, such as the storage of supplies.

31.5. The contracting authority shall issue the account statement to the contractor two months at the latest after the effective contract termination date.

If necessary, penalties for delay will be applied up to and including the day before the effective date of termination.

ARTICLE 32: HANDOVER OF SERVICES AND MATERIAL RESOURCES PERMITTING CONTRACT PERFORMANCE

In case of termination, the contracting authority may require the contractor to:

- hand over such services as may be underway, as well as such materials and objects as may be in its possession for contract performance purposes;
- hand over the material means of performance specially intended for use under the contract;
- the performance of preservation measures, including storage or guarding operations;

Upon notification of termination, the contracting authority shall inform the contractor or its assignees of the deadline for the handover of such property by the contractor, and the conditions for its preservation pending said handover.

In case of termination by fault of the contractor, this article shall be implemented at the contractor's expense.

ARTICLE 33: PERFORMANCE OF SERVICES AT CONTRACTOR EXPENSE AND RISK

33.1. Provided that the specific contract documents provide for this possibility, and that the termination decision makes specific reference thereto, the contracting authority may commission a third party to perform the services included in the contract at the contractor's cost and risk, either in case of the latter's non-performance of a service that due to its nature cannot be delayed, or in case of termination of the contract pronounced due to contractor default.

33.2. If it is not possible for the contracting authority to acquire, under acceptable conditions, services exactly consonant with those whose performance is included in the specific contract documents, it may substitute equivalent services.

33.3. The awardee of the terminated contract shall not be permitted to take part, directly or indirectly, in the performance of said services thus to be carried out at its expense and risk. It must nevertheless provide all the information gathered and all resources deployed in the context of the performance of the initial contract that may be necessary for the performance of said contract by the third party designated by the contracting authority.

33.4. Such increases to the expenses incurred compared to the contract value as may result from the performance of the services at the contractor's expense and risk shall be borne by the contractor. Decreases to said expenses shall not accrue to its benefit.

CHAPTER 8: DISPUTES AND LITIGATION

ARTICLE 34: DISPUTES BETWEEN THE PARTIES

The contracting authority and the contractor shall attempt to amicably resolve any dispute that may arise concerning the interpretation of the contract's terms or the performance of the services included in the contract.

Any dispute between the owner and the contracting authority shall be discussed in a claim letter stating the reasons for the dispute, and indicating, if applicable, the amount claimed. This letter must be sent to the contracting authority within two months counted from the date when the dispute arose, and shall otherwise be time-barred.

The contracting authority shall have a two-month period counted from the date of its receipt of the claim letter to provide notice of its decision. The absence of a decision within this period shall be deemed equivalent to tacit rejection of the claim.

If it is not possible to reach an amicable settlement, the Administrative Court of Bordeaux shall have jurisdiction.

ARTICLE 35: CONSOLIDATED LIST OF EXCEPTIONS TO THE CCAG

These Special Contract Specifications derogate from the following articles of the CCAG IP and ICT:

- Article 1;
- Article 2;
- Article 3;
- Article 4;
- Article 5;
- Article 10;
- Article 11;
- Article 12;
- Article 13;
- Article 14;
- Article 15;
- Article 16;
- Article 22;
- Article 25.